

CHAPTER 294. POLICEMEN'S AND FIREMEN'S RETIREMENT SYSTEM*

***Cross references:** Municipal Employees' Retirement System - see M.C.L.A. Secs. 38.601 et seq.; Compensation and salaries in home rule cities - see M.C.L.A. Secs. 117.3, 117.5, 117.17, 117.19, 117.20, 117.28, 117.32, 117.33; Civil service in home rule cities - see M.C.L.A. Sec. 117.4i; Recall - see M.C.L.A. Sec. 117.4i; Shortening or extending term of office - see M.C.L.A. Sec. 117.5; Pensions generally - see CHTR. Sec. 9-203; Police Department - see ADM. Ch. 222; Fire Department - see ADM. Ch. 224; Board of Police Commissioners - see ADM. Ch. 270; Board of Fire Commissioners - see ADM. Ch. 271; General Employees' Retirement System Board - see ADM. Ch. 279; Employees' Retirement System - see ADM. Ch. 292.

294.01. Application of reciprocal retirement act.

The City is hereby declared to be and is made a reciprocal unit of government under and subject to Public Act 88 of 1961, as amended, which Public Act is hereby made applicable to and a part of the Policemen's and Firemen's Retirement System of the City.

(Ord. No. 460, 6-27-77)

294.02. Pensions.

(a) *Definitions.* As used in this section, unless a different meaning is clearly required by the context:

Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the employees' savings fund, together with regular interest thereon.

Beneficiary means any person, except a retirant, who is in receipt of, or who is designated to receive, a retirement allowance or other benefit payable by the retirement system.

Board of Trustees or Board means the Board of Trustees provided for in this section.

Credited service means the sum of a member's prior service credit and his or her membership service credit.

Final average compensation means the monthly average of the compensation paid a member during the period of the 24 highest consecutive months of his or her credited service immediately preceding the date his or her employment by the City as a policeman, except those officers that hold the rank of sergeant or above at the time of his or her retirement, effective as of August 1, 1999, or fireman last terminates. If he or she has less than 24 months of credited service, his or her final average compensation shall be the monthly average of the compensation paid him or her for his or her total period of credited service. For those officers that hold the rank of sergeant or above effective as of August 1, 1999, the final average compensation is limited to 110 percent of an employee's base pay at the time of retirement. Base pay shall be defined as annual base salary, longevity, gun and clothing allowances, sick leave, shift premium and four holidays.

Final compensation means a member's monthly rate of compensation at the time his or her employment by the City as a policeman or fireman last terminates.

Fireman means a permanent employee in the Fire Department who holds the rank of firefighter or higher rank and who has taken the oath required in Section 4-303.4 of the City Charter. "Fireman" does not include the civilian employees in the Department.

Member means any person who is included in the membership of the retirement system whether or not such person was represented by a collective bargaining unit upon the effective date of his or her retirement.

Membership service means service rendered after December 31, 1943, to the extent credited a member by the Board of Trustees.

New member means any member who first entered the employ of the City as a policeman or fireman after December 31, 1943.

Original member means any member who was in the employ of the City before January 1, 1944.

Policeman means a permanent employee in the Police Department who holds the rank of patrolman or higher rank and who has taken the oath required in Section 4-307.4 of the City Charter, but it shall not include the civilian employees in the Police Department.

Prior service means service rendered prior to January 1, 1944, to the extent credited a member by the Board of Trustees.

Regular interest means such rate or rates of interest per annum, compounded annually, as the Board of Trustees shall from time to time adopt, subject to the approval of Council.

Retirant means a member who retires with a retirement allowance payable by the retirement system.

Retirement allowance means a monthly amount payable throughout the future life of a person, or for a temporary period, as provided in this section.

Retirement allowance reserve means the present value of all payments to be made on account of any retirement allowance. The retirement allowance reserve shall be computed upon the basis of such mortality and other tables of experience, and regular interest, as the Board of Trustees shall from time to time adopt.

Service means personal service rendered as a policeman or fireman in the employ of the City and paid for by the City.

The masculine gender shall include the feminine, and the plural form shall include the singular.

(b) *Establishment of System.* The City of Lansing policemen and firemen retirement system, hereinafter called the retirement system, is hereby established for the purpose of providing retirement allowances for policemen and firemen of the City and certain death benefits for their dependents, as provided in this section.

(c) *Board of Trustees.*

(1) *Establishment.* There is hereby established a Board of Trustees in whom is vested the general administration, management and responsibility for the proper operation of the retirement system and for construing and making effective the provisions of this section.

(2) *Membership.* The Board shall consist of eight Trustees, all of whom shall be voting members, as follows:

A. The Mayor, ex-officio;

B. A member of Council to be selected by Council and to serve at the pleasure of Council;

C. The City Treasurer, ex-officio;

D. A resident of the City, who shall be appointed by the Mayor, by and with the consent of Council, which citizen is a duly qualified elector and a freeholder of the City

and who is neither an employee of the City nor eligible to receive benefits under this section;

E. Two members of the Police Department, to be elected by all the members of such Department; and

F. Two members of the Fire Department, to be elected by all the members of such Department.

The elections of the policemen and firemen Board members shall be held under such rules and regulations as the Board shall from time to time adopt.

(3) *Term and oath of office.* At the first election of Trustees, the appointed resident Trustee shall serve five years; the policeman member with the greatest number of votes shall serve four years; the policeman member with the next greatest number of votes shall serve two years; the fireman member with the greatest number of votes shall serve three years; and the fireman member with the next greatest number of votes shall serve one year.

After the first election of Trustees, the regular term of a policeman or fireman member Trustee and the appointed resident Trustee shall be five years.

Each Trustee shall, within ten days after his or her appointment or election, take an oath of office to be administered by the City Clerk.

(4) *Vacancies.* If a member Trustee or the appointed resident Trustee fails to attend three consecutive meetings of the Board, unless in each case excused for cause by the remaining Trustees attending such meetings, or in the event a member Trustee leaves the employ of the City, he or she shall be considered to have resigned from the Board and the Board shall, by resolution, declare his or her office of Trustee vacated as of the date of adoption of such resolution. If a vacancy occurs in the office of Trustee, the vacancy shall be filled within sixty days from and after the date of the vacancy, for the unexpired portion of the term, in the same manner as the office was previously filled.

(5) *Voting; quorum.* Each Trustee shall be entitled to one vote on each question before the Board in its meetings. A majority of concurring votes shall be necessary for a decision by the Trustees at any meeting of the Board.

Five Trustees shall constitute a quorum at any meeting of the Board.

(6) *Officers; meetings; compensation.* The Board shall elect from its own number a Chairman and a Vice Chairman. The Board shall hold meetings regularly, at least monthly, and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Board shall be public. The Trustees shall serve without additional compensation for their services as Trustees.

(d) *Officers.* The officers of the retirement system shall be as follows:

(1) The Director of Finance shall be the secretary to the Board of Trustees, and he or she shall serve as the administrative officer of the retirement system.

(2) The City Treasurer shall be treasurer of the retirement system, and he or she shall be the custodian of its funds.

(3) The City Attorney shall be the legal advisor to the Board.

(4) The Board shall appoint an actuary who shall be the technical advisor to the Board on matters regarding the operation of the retirement system, and such actuary shall perform such other duties as are required of him or her under this section.

(5) The Board shall appoint as Medical Director a physician who is not eligible to participate in the retirement system as a member, retirant or beneficiary. The Medical Director shall be directly responsible to and shall hold office at the pleasure of the Board. He or she shall arrange for and pass upon all medical examinations required under this section, investigate all essential statements of a medical nature made by or on behalf of a member or retirant in connection with a claim for benefits and report in writing to the

Board his or her conclusions and recommendations on medical matters referred to him or her by the Board.

(6) Nothing in this subsection shall prohibit the Board of Trustees from hiring professional services deemed necessary to fulfill its fiduciary responsibilities.

(e) *Annual Report.* The Board of Trustees shall annually render a report to the Mayor and Council, on or before July 15, showing the fiscal transactions of the retirement system for the year ended the preceding December 31, the amounts of cash and securities held by the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of its assets and liabilities.

(f) *Mortality and Other Tables.* The Board of Trustees shall from time to time adopt such mortality and other tables of experience as the actuary shall from time to time recommend as necessary in the operation of the retirement system on an actuarial basis. The Board shall also from time to time adopt a rate or rates of regular interest, subject to the approval of Council.

(g) *Membership.*

(1) *Employees included.* The membership of the retirement system shall consist of all policemen and firemen who were in the employ of the City on January 1, 1944. However, any policeman or fireman who as of January 1, 1944, had twenty-five or more years of prior service credit shall be excluded from membership in the retirement system and shall retain for himself or herself and his or her spouse and children, all rights and privileges previously provided by law, unless on or before January 1, 1944, he or she filed with the Director of Finance (or City Controller) his or her written election to become a member of the retirement system. Such excluded policemen and firemen who did not elect to become members of the retirement system shall, after December 31, 1943, while they remain in the employ of the City as policemen or firemen, pay five percent of their compensation into a police and fire service retirement fund previously provided by law.

All persons who become policemen or firemen after December 31, 1943, shall, from the date of their employment with the City, become members of the retirement system.

The membership of the retirement system shall not include persons who are temporarily employed as a policeman or fireman for an emergency, special officers and special firemen, persons who are privately employed as policemen or firemen or civilian employees in the Police and Fire Departments.

In any case of doubt, the Board of Trustees shall decide who is a member of the retirement system within the meaning of this section.

(2) *Termination.* Except as otherwise provided in this section, should any member no longer be employed as a policeman or fireman by the City, for any reason except his or her retirement or death, he or she shall thereupon cease to be a member and his or her credited service at that time shall be forfeited by him or her. In the event he or she is re-employed by the City as a policeman or fireman, he or she shall again become a member of the retirement system. If his or her re-employment occurs within a period of four years from and after the date he or she last separated from City employment, his or her credited service last forfeited shall be restored to his or her credit, provided that he or she returns to the employees' savings fund the amount, if any, he or she withdrew therefrom, together with regular interest from the date of withdrawal to the date of repayment. Upon a member's retirement or death, he or she shall thereupon cease to be a member.

(h) *Service Credit.*

(1) *Generally.* The Board of Trustees shall determine, by appropriate rules and regulations, the amount of service to be credited any member, but in no case shall less than eleven months of service rendered by a member in any calendar year be credited

him or her as a year of service; nor shall more than one year of service be credited any member for all service rendered by him or her in any calendar year.

(2) *Military service credit.* Should a policeman or fireman, who while employed by the City entered or enters any armed service of the United States Government during time of compulsory military service, such armed service actually required of him or her shall be credited him or her as City service in the same manner as if he or she has served the City uninterruptedly, provided that:

A. He or she returns to the employ of the City within one year from and after termination of such armed service actually required of him or her;

B. He or she returns to the employees' savings fund the amount, if any, he or she withdrew therefrom at the time he or she entered or while in such armed service, together with regular interest from the date of withdrawal to the date of repayment; and

C. In no case shall any member be credited with more than five years of City service for all such armed service rendered by him or her. In case of doubt as to the period of such armed service to be credited, a member of the Board of Trustees shall have final power to determine such period.

During the period of a member's armed service in the Federal Government and until his or her return to City employment, his or her contributions to the employees' savings fund shall be suspended and his or her balance standings to his or her credit in such fund shall be accumulated at regular interest.

(3) *Additional military service credit.* Police non-supervisory and firefighter members shall be eligible to receive retirement service credit for periods of compulsory or non-compulsory induction into the Armed Forces of the United States of America as if the employee had served the City during that period, provided that:

A. The employee shall submit a written election to receive military service retirement credit for all or part of the period of military service;

B. The employee requesting military service credit shall pay the cost of an actuarial evaluation of the cost of adding such military service to his or her retirement service credit, performed by the actuary denoted in paragraph (d)(4) hereof. Costs determined by said actuary shall be considered final and binding upon the City, the collective bargaining unit for which the employee is a member and the affected employee;

C. The employee shall be responsible for the extra cost of adding such military service to his or her retirement service credit. The employee electing to exercise the right to receive military credit shall make full payment for the cost of such service credit no later than sixty days following receipt of the actuarial cost information;

D. In no case shall any member be credited with more than two years of City service for all such armed service rendered by him or her. In case of doubt as to the period of such armed service to be credited, the Board of Trustees shall have final power to determine such period;

E. An employee eligible to receive military service credit, as defined in both this subsection and subsection (h)(2) hereof, shall receive such credit first as described in subsection (h)(2) hereof and second as described in this subsection for any remaining credit; and

F. Active military service shall be defined to include periods of voluntary or involuntary induction into the Armed Forces of the United States of America under the Selective Service Act of 1940, as amended; it shall also include the initial training period required to be a reserve member of the Armed Forces of the United States of America or the United States National Guard. But shall specifically exclude annual reserve training programs required of reservists or National Guard members.

(i) *Voluntary Retirement.*

(1) A member may retire upon his or her written application filed with the Board of Trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he or she wishes to be retired, provided that such member is eligible to retire according to paragraphs (i)(2) through (4) hereof upon his or her retirement, he or she shall receive a retirement allowance as provided in paragraph (k)(1) hereof.

(2) A new member may retire after his or her attainment of age 50 if he or she has 25 or more years of credited service, or after his or her attainment of age 55.

(3) An original member with less than 20 years of prior service credit may retire after his or her attainment of age 50 if he or she has 25 or more years of credited service.

(4) An original member with 20 or more years of prior service credit may retire at or after his or her attainment of age 45 if he or she has 25 or more years of credited service.

(j) *Compulsory Separation from City Employment.* A member shall be separated from City employment the first day of the calendar month next following the month in which he or she attains age sixty, and age seventy, if a member of the Fire Department. Upon his or her separation from City employment, he or she shall be retired and shall receive a retirement allowance as provided in paragraph (k)(1) hereof.

(k) *Retirement Allowance.*

(1) *Generally.*

A. Upon a member's retirement, except as provided in subsection b, as provided in this section, he or she shall receive a retirement allowance equal to the sum of 2.95 percent of his or her final average compensation multiplied by the number of years, and fraction of a year, of his or her credited service, not to exceed 25 years.

B. Upon a Police Department Member's retirement, who holds the rank of sergeant or above at the time of his or her retirement, effective as of August 1, 1999, as provided in this section, he or she shall receive a retirement allowance equal to 3.2 percent of the member's final average compensation multiplied by the number of years and fraction of a year, of credited service not to exceed 25 years.

C. If a retirant dies before he or she has received in retirement allowance payments an aggregate amount equal to his or her accumulated contributions standing to his or her credit in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the aggregate amount of retirement allowance payments received by him or her shall be paid from the retirement reserve fund to such person or persons as the retirant has nominated by written designation, duly executed and filed with the Board of Trustees. If there is no such designated person or persons surviving the retirant, such difference, if any, shall be paid to the retirant's legal representative. No benefits shall be paid under this paragraph on account of the death of a retirant if a retirement allowance becomes payable under paragraph (k)(3) and (4) hereof on account of his or her death.

(2) *Deferred allowance.* Should any member, who has ten or more years of credited service, leave the employ of the City before becoming eligible to retire as provided in subsection (i) hereof for any reason except his or her discharge, retirement or death, he or she shall be entitled to a retirement allowance, as provided in paragraph (k)(1) hereof pursuant to its provisions in force at the time he or she left City employment, provided that he or she does not withdraw his or her accumulated contributions from the employees' savings fund. His or her retirement allowance shall begin the first day of the calendar month next following the month in which his or her application for the same is filed with the Board of Trustees on or after his or her attainment of age 55, if he or she is a new member, or age 50 if he or she is an original member.

(3) *Allowance options for spouse of deceased retirant.*

A. A member, within 30 days prior to retirement, may select one of the following two survivor election options by making an election on a form agreed upon by the collective bargaining unit for which the employee is a member and the City:

Option I. Upon the death of a retirant, who retired on or after the effective date of this revised section (September 1, 1966), his or her widow or widower, who was his or her legally married spouse at the time of his or her retirement, shall receive a retirement allowance equal to one-half of the fund retirement allowance he or she was receiving, except as provided in paragraph (k)(3)B. hereof and subject to paragraph (k)(3)C. hereof.

Option II. Upon retirement, the retirant shall receive 86 percent of his or her full retirement allowance as provided in paragraphs (k)(1)A. or B. hereof upon the death of the retirant, his or her widow or widower, who was his or her legally married spouse at the time of his or her retirement, shall receive a retirement allowance equal to 86 percent of the fund retirement allowance as provided in paragraphs (k)(1)A. or B. hereof.

B. If a retirant who retired under paragraph (i)(1) hereof dies prior to the earlier of his or her attainment of age 55 or the date upon which he or she would have achieved 25 years of credited service but for the disability, his or her widow or widower, who was his or her legally married spouse at the time of his or her retirement, shall receive a retirement allowance computed according to paragraph (k)(1) hereof. In computing the retirement allowance, the retirant's credited service shall be increased to include the period he or she was in receipt of a disability retirement allowance provided in paragraph (1)(3) hereof, and his or her final average compensation shall be recomputed using the monthly rates of compensation as of the date of his or her death for the rank or ranks held by him or her during the period used in computing his or her final average compensation at the time of his or her retirement. For Fire Department employees, if the employee incurred the disability while "acting" at a higher rank, the final average compensation of the employee shall be based upon the pay he or she would have received in the "acting" rank for the applicable service period. The widow or widower retirement allowance shall not be less than 20 percent of the retirant's recomputed final average compensation and shall be subject to paragraph (k)(3)C. hereof.

C. No retirement allowance shall be paid thereunder on account of the death of a retirant if any retirement allowance is paid or payable under subsection (n) hereof on account of his or her death. Any retirement allowance payable under this paragraph shall be subject to subsection (o) hereof.

(4) *Allowance for spouse of deceased member.* If a member, who has ten or more years of credited service, dies on or after the effective date of this revised section (September 1, 1966) while in the employ of the City, and leaves a widow or widower, the widow or widower shall receive a retirement allowance equal to one-half of the members accrued retirement allowance computed according to paragraph (k)(1) hereof in the same manner in all respects as if the member had retired the day preceding the date of his or her death, notwithstanding that he or she might not have satisfied the applicable provisions of subsection (1) hereof. However, the widow or widowers retirement allowance shall not be less than twenty percent of the member's final average compensation and shall be subject to subsection (o) hereof. No retirement allowance shall be paid or payable under this paragraph on account of the death of a member if any retirement allowance is paid or payable under subsection (n) hereof on account of his or her death.

(l) *Duty Disability.*

(1) *Generally.* Upon the application of a member, or his or her department head. A member who becomes totally incapacitated for duty as the natural and proximate result of causes arising out of and in the course of his or her actual performance of duty as a

policeman or fireman in the employ of the City, without willful negligence on his or her part, shall be retired, provided that the Medical Director, after a medical examination of the member, certifies to the Board of Trustees that such member is mentally or physically totally incapacitated for the performance of duty to the City as a policeman or fireman and that such incapacity will probably be permanent, and provided, further, that the Board concurs with the report of the Medical Director.

(2) *Benefits incurred after meeting voluntary retirement eligibility conditions.* Upon a members retirement after meeting voluntary retirement eligibility conditions as described in paragraph (1) hereof, on account of disability as provided in paragraph (l)(1) hereof, he or she shall receive a retirement allowance as provided in paragraph (k)(1) hereof, subject to subsection (o) hereof. For fire department employees, if the employee incurred the disability while "acting" at a higher rank, the final average compensation of the employee shall be based upon the pay he or she would have received in the "acting" rank for the applicable service period. Any retirement allowance payable under this paragraph shall be subject to subsection (o) hereof.

(3) *Benefits incurred before meeting voluntary retirement eligibility conditions.* Upon a member's retirement before meeting voluntary retirement eligibility conditions as described in paragraph (1) hereof, on account of disability as provided in paragraph (l)(1) hereof, he or she shall receive the following benefits:

A. He or she shall receive a disability retirement allowance equal to two-thirds of his or her final average compensation, subject to subsections (o) and (p) hereof. His or her disability retirement allowance shall begin as of the date of his or her disability, but in no case more than six months before the date his or her application for disability retirement is filed with the Board of Trustees or prior to the date his or her name last appeared on a City payroll with pay, whichever is later. Such allowance shall terminate upon his or her attainment of age 55 or, if elected, the date upon which he or she would have achieved 25 years of credited service but for the disability, whichever is earlier.

B. He or she shall receive a retirement allowance computed according to paragraph (k)(1) hereof, upon his or her attainment of age 55 or, if elected, the date upon which he or she would have achieved 25 years of credited service but for the disability, whichever is earlier. In computing such retirement allowance, the member's credited service shall be increased to include the period he or she was in receipt of a disability retirement allowance, and his or her final average compensation shall be recomputed using the monthly rates of compensation as of the date he or she attains age 55 or an earlier date as provided herein, for the rank or ranks held by him or her during the period used in computing his or her final average compensation at the time of his or her retirement. For Fire Department employees, if the employee incurred the disability while "acting" at a higher rank, the final average compensation of the employee shall be based upon the pay he or she would have received in the "acting" rank for the applicable service period. Any retirement allowance payable under this paragraph shall be subject to subsection (o) hereof.

C. During the period a retirant is receiving a disability retirement allowance under paragraph (l)(3)A. hereof, his or her balance in the employees' savings fund at the time of his or her retirement shall remain therein and shall be accumulated at the regular interest. Upon attaining age 55 or an earlier date as provided under paragraph (l)(3)B. hereof, such accumulated contributions shall be transferred from the employees' savings fund to the retirement reserve fund.

(m) *Nonduty Disability.*

(1) *Generally.* Upon the application of a member, or his or her department head on behalf of the member, a member with ten or more years of credited service who becomes totally and permanently incapacitated for duty as a policeman or fireman in the

employ of the City, as the result of causes incurred not in the actual performance of duty to the City, may be retired by the Board of Trustees, provided that the Medical Director, after a medical examination of such member, certifies to the Board that such member is mentally or physically totally incapacitated for duty in the employ of the City and that such incapacity will probably be permanent, and provided, further, that the report of the Medical Director is concurred with by the Board.

(2) *Benefits incurred after meeting voluntary retirement eligibility conditions.* Upon a member's retirement after meeting voluntary retirement eligibility conditions as described in paragraph (i) hereof, on account of disability as provided in paragraph (m)(1) hereof, he or she shall receive a retirement allowance as provided in paragraph (k)(1) hereof, subject to subsection (o) hereof.

(3) *Benefits incurred before meeting voluntary retirement eligibility conditions.* Upon a member's retirement before meeting voluntary retirement eligibility conditions as described in paragraph (i) hereof, on account of disability as provided in paragraph (m)(1) hereof, he or she shall receive a disability retirement allowance computed according to paragraph (k)(1) hereof. The member's disability retirement allowance shall begin as of the date of his or her disability, but in no case more than six months before the date his or her application for disability retirement is filed with the Board of Trustees or prior to the date his or her name last appeared on a City payroll with pay, whichever is later. Such disability retirement allowance shall not exceed two-thirds of the annual rate of compensation of either a full-paid patrolman or a full-paid firefighter as of the effective date of such member's retirement, whichever rate is higher, and shall be subject to subsections (o) and (p) hereof.

(n) *Death in Line of Duty.*

(1) *Generally.* If a member dies as the result of a personal injury or disease arising solely and exclusively out of and in the course of his or her employment by the City, or a disability retiree who retired under paragraph (l)(1) hereof dies prior to meeting voluntary retirement eligibility conditions as described in paragraph (i) hereof, and within five years from and after the date of his or her retirement, and in either case his or her death, or injury or disease resulting in death, is found by the Board of Trustees to have occurred solely and exclusively as the natural and proximate result of his or her actual performance of duty in the employ of the City, the applicable benefits provided in paragraphs (n)(2) through (6) hereof shall be paid, subject to paragraph (n)(7) hereof and subsection (o) hereof.

(2) *Accumulated contributions.* Upon the death of a member, his or her accumulated contributions standing to his or her credit in the employees' savings fund shall be paid in accordance with subsection (q) hereof.

(3) *Widow or widower's retirement allowance.* A retirement allowance equal to one-third of the final compensation of the deceased member shall be paid to his or her widow or widower, provided that his or her widow or widower was his or her legally married spouse at the time of his or her retirement if his or her retirement as provided in (l)(1) hereof preceded his or her death. Any retirement allowance payable under this paragraph shall be subject to paragraph (n)(7) hereof and subsection (o) hereof.

(4) *Children's benefits while widow or widower is living.* If, in addition to a widow or widower, the deceased person leaves an unmarried child or children under age twenty-one, each such child shall receive a retirement allowance of an equal share of one-quarter of the deceased person's final compensation. Upon a child's adoption, attainment of age twenty-one, marriage or death, whichever occurs first, his or her retirement allowance shall terminate and the Board shall redistribute the shares of one-fourth of the deceased person's final compensation to his or her remaining eligible

children under age twenty-one, if any. The retirement allowances payable under this paragraph shall be subject to paragraph (n)(7) hereof and subsection (o) hereof.

(5) *Children's benefits if widow or widower dies or remarries.* If there is no widow or widower surviving the deceased person, or if the widow or widower dies, and there is a surviving unmarried child or children under age twenty-one, each such child shall receive a retirement allowance of one-fourth of the deceased person's final compensation, provided that if there are more than two such surviving children, each such child shall receive a retirement allowance of an equal share of one-half of the deceased person's final compensation. Upon a child's adoption, attainment of age twenty-one, marriage or death, whichever occurs first, his or her retirement allowance shall terminate and the Board shall redistribute the shares of one-half of the deceased person's final compensation to his or her remaining eligible children under age twenty-one. In no case shall any such child's retirement allowance be more than one-fourth of the deceased person's final compensation. The retirement allowance payable under this paragraph shall be subject to paragraph (n)(7) hereof and subsection (o) hereof. A widow's or widower's benefit shall cease upon remarriage for any period of time during which a child's benefit equal to one-half of the deceased person's final compensation is being paid.

(6) *Dependent parents' benefits.* If the deceased member does not leave a widow or widower or children eligible to receive a retirement allowance provided in this subsection, there shall be paid to each his or her dependent father and dependent mother, whom the Board, after investigation, finds to have been dependent upon him or her for at least fifty percent of their financial support, a retirement allowance of one-sixth of the deceased person's final compensation. In no case shall the retirement allowance payable to either parent exceed one-sixth of the monthly rate of compensation of either a full paid policeman or full paid fireman, whichever is higher, as of the date of the person's death. Upon the remarriage or death of a parent, his or her retirement allowance shall terminate. Any retirement allowances payable under this paragraph shall be subject to subsection (o) hereof.

(7) *Limitations.* The total of the monthly retirement allowances provided in paragraphs (n)(3) through (5) hereof, payable on account of the deceased person, shall not exceed sixty percent of the monthly rate of compensation of either a full paid policeman or a full paid fireman, whichever is higher, as of the date of the person's death.

(o) *Workers' Compensation Offset.* Any workers' compensation paid or payable on account of the disability or death of a member or retirant shall be offset against any retirement allowance paid or payable by the retirement system on account of the same disability or death.

(p) *Re-Examination of Disability Retirants.*

(1) At least once each year during the first five years following the retirement of a member with a disability retirement allowance, and at least once in every three-year period thereafter, the Board may require any disability retirant, who has not attained age fifty-five years or elected the voluntary retirement eligibility conditions as described in paragraph (i) hereof, to undergo a medical examination by or under the direction of the Medical Director. Should the disability retirant refuse to submit to such medical examination in any such period, his or her disability retirement allowance may be discontinued by the Board. Should such refusal continue for one year, all his or her rights in and to a disability retirement allowance may be revoked by the Board.

(2) If, after a medical examination of a disability retirant, the Medical Director reports to the Board that the disability retirant is physically able and capable of resuming employment with the City as a policeman or fireman, such disability retirant shall be returned to the employ of the City in the rank he or she held at the time of his or her

retirement, or higher rank, and his or her disability retirement allowance shall terminate. A disability retirant who returns to City employment shall again become a member of the retirement system and his or her credited service in force at the time of his or her disability retirement shall be restored to his or her credit. He or she shall be given service credit for the period he or she was receiving a disability retirement allowance under paragraph (l)(3) hereof. He or she shall not be given service credit for the period he or she was receiving a disability retirement allowance under paragraph (m)(3) hereof.

(3) If a disability retirant, who has not met the retirement conditions described in paragraph (l)(3)B. hereof, becomes engaged in a gainful occupation, business or employment, and the sum of his or her pay or other remuneration from such occupation, business or employment and his or her disability retirement allowance exceeds the current rate of compensation for the last rank held by him or her, his or her disability retirement allowance shall be reduced to an amount which, together with the amount so earned by him or her, shall equal, but not exceed, the current compensation for such rank. Should his or her earnings be later changed, his or her disability retirement allowance shall be adjusted in like manner.

Each disability retirant shall file, at least annually, a statement of earnings on forms furnished by the Board, together with such supporting schedules as may be requested by the Board to establish a basis for determining earnings for operations of this section. The Board may from time to time adopt rules and regulations for defining remuneration for purposes of application of this paragraph. Refusal by a disability retirant to submit required information upon written request of the Board may, at the discretion of the Board, subject the disability retirant to suspension of allowance payments.

(q) *Refund of Accumulated Contributions.*

(1) Should a member leave the employ of the City before he or she has satisfied the age and service requirements for retirement, as provided in subsection (i) hereof, and is not entitled to a retirement allowance, he or she shall be paid his or her accumulated contributions standing to his or her credit in the employees' savings fund upon his or her demand in writing to the Board of Trustees.

(2) If a member dies before his or her retirement becomes effective and no retirement allowance becomes payable on account of his or her death, except as provided in subsection (n) hereof, his or her accumulated contributions standing to his or her credit in the employees' savings fund, at the time of his or her death, shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the Board. If there is no such person surviving the deceased member, his or her accumulated contributions shall be paid to his or her legal representative.

(3) Payment of refunds of accumulated contributions may be made in installments according to such rules and regulations as the Board may from time to time adopt.

(4) If a member who terminates employment elects a refund of contributions and some or all of the refund is eligible for rollover treatment as defined by the Internal Revenue Service, and the member elects to have such eligible distribution paid directly to an eligible retirement plan or IRA and specifies the eligible retirement plan or IRA to which such distribution is to be paid (in such form and at such time as the distributing plan administration may prescribe), the distribution will be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan.

(r) *Retirement System Funds.*

(1) *Generally.* The employees' savings fund, the pension accumulation fund and the retirement reserve fund are hereby established. Effective January 1, 1999, the health insurance fund is additionally established. The Board of Trustees may from time to time establish such other funds as shall be required for the proper operation of the retirement system. The funds shall be held and administered for the exclusive purpose of providing

benefits to the members and their beneficiaries and defraying reasonable expenses of the retirement system. The entire amount of all moneys paid into the fund shall constitute an irrevocable contribution by the City, and the City shall have no further rights or claims to said funds other than such amounts as remain in the funds upon the retirement system's termination because of erroneous actuarial computations after the satisfaction of all fixed and contingent obligations to the members and their beneficiaries. A balance due to an erroneous actuarial computation shall mean any surplus arising because actual requirements differed from expected requirements based on previous actuarial valuations of liabilities or determinations of costs of providing pension benefits under the retirement system in accordance with reasonable assumptions as to mortality, interest, etc., and correct procedures relating to the method of funding, all as made by the City upon and with the advice of an actuary. Notwithstanding the foregoing, any contributions made by the City by a mistake of fact shall be returned to the City, upon its request, within one year after such contribution was made.

(2) *Employees' savings fund.*

A. The employees' savings fund shall be the fund in which shall be accumulated, at regular interest the contributions deducted from the compensations of members, and from which shall be made transfers and paid refunds of accumulated contributions as provided in this section.

B. The contributions of a member of the Fire Department, the Police Nonsupervisory Department and the Police Supervisory Department to the retirement system shall be 4.48 percent, 5.8 percent and 9.52 percent, respectively of his or her compensation paid him or her by the City. The Director of Finance or other officer responsible for making up the payroll shall cause the contributions to be deducted from the compensation of each member on each and every payroll, for each and every payroll period, from the date of his or her entrance in the system to the date his or her membership terminates.

C. The contributions provided in this subsection shall be made notwithstanding that the minimum compensation provided by law for any member shall be changed thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this subsection, and payment of his or her compensations less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person, except as to benefits provided under this section. When deducted, the contributions of each member shall be paid into the retirement system and shall be credited to his or her individual account in the employees' savings fund.

D. In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, he or she shall deposit in the fund, by a single payment or by an increased rate of contribution as determined by the Board of Trustees, an amount equal to the amount he or she might have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he or she withdrew his or her accumulated contributions until he or she repays to the fund all amounts due such fund by him or her.

E. Upon the retirement of a member, his or her accumulated contributions shall be transferred from the employees' savings fund to the retirement reserve fund. At the expiration of a period of five years from and after the date an employee ceases to be a member, any balance standing to his or her credit in the employees' savings fund that is unclaimed by the member or his or her legal representative shall remain a part of the moneys of the retirement system and shall be transferred to the pension accumulation

fund, if no retirement allowance will become payable by the retirement system on account of his or her City employment.

F. The employer shall, for tax purposes, pick up the Fire members, Police Supervisory and Police Nonsupervisory Department member contributions required by this section for all compensation earned after the later of the execution or effective date of this subsection (January 1, 1996). The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The employer shall pick up the member contributions from funds established and available in the salaries account, which funds would otherwise have been designated as member contributions and paid to the retirement system. Member contributions picked up by the employer pursuant to this subsection shall be treated for all other purposes of this and other laws of the employer in the same manner and to the same extent as member contributions made prior to the effective date of this subsection. The member does not have the option of receiving the picked up member contributions in cash instead of having it paid into the retirement system.

(3) *Pension accumulation fund.* The pension accumulation fund shall be the fund in which shall be accumulated reserves resulting from contributions provided by the City. Upon the basis of mortality tables and other tables of experience, and regular interest, as the Board of Trustees shall from time to time adopt, the actuary shall annually compute the retirement allowance reserve liabilities for retirement allowances being paid retirements and beneficiaries and covering service rendered and to be rendered by members. The liabilities so computed shall be financed by appropriations, to be made by Council determined according to this paragraph. The board shall annually report to council the amount of contributions to be paid by the City to the retirement system during the ensuing fiscal year. When paid, the City's contributions shall be credited to the pension accumulation fund.

A. The City's appropriations for members' current service shall be a percentage of their annual compensation which will produce an amount which if paid annually by the City during the members' periods of future service would be sufficient, together with the future service portions of their accumulated contributions, to provide the retirement allowance reserves for the future service portions of the retirement allowances to be paid them.

B. The City's appropriations for members' accrued service shall be a percentage of their annual compensation which will produce an amount which if paid annually by the City for a number of years, to be determined by the Board, would amortize, at regular interest, the unfunded retirement allowance reserves, if any, for the accrued service portions of the retirement allowances to be paid them.

C. The City's appropriations for retirement allowances being paid retirants and beneficiaries shall be a percentage of the annual compensations of members which will produce an amount which if paid annually by the City for a number of years, to be determined by the Board, would amortize, at regular interest, the unfunded retirement allowance reserves, if any, for the retirement allowances being paid retirants and beneficiaries.

(4) *General fund.* The administrative expenses of the retirement system shall be paid by the City from its General Fund.

(5) *Retirement reserve fund.* The retirement reserve fund shall be the fund from which shall be paid all retirement allowances payable as provided in this section. Should a disability retirant return to the employ of the City, his or her retirement allowance reserve, computed as of the date of his or her return, shall be transferred from the retirement reserve fund to the employees' savings fund and the pension accumulation fund in the same proportions as the retirement allowance reserve was originally

transferred. The portion transferred to the employees' savings fund shall be credited to the member's individual account therein. Each December 31, after receipt of the annual actuarial valuation, the balance in the retirement reserve fund shall be brought into balance with the actuarial present value of retirement allowances to be paid after December 31 to all retirants and beneficiaries in receipt of retirement allowances at December 31, by a transfer between the retirement reserve fund and the pension accumulation fund.

(6) *Health Insurance Fund.* The health insurance fund shall be the fund for receiving contributions for post-retirement health insurance benefits. The initial balance as of January 1, 1998, shall be \$3,584,840.14, which amount is equal to the December 31, 1997, asset receivable allocated to health insurance advance funding from the City's general fund. City contributions, as specified in this paragraph, for post-retirement health insurance benefits, including dental insurance and medicare reimbursement benefits, shall be credited to the health insurance fund. Notwithstanding the provisions of subsection 294.02(r)(8), the health insurance fund shall be credited investment income at a rate consistent with the method used to determine the actuarial value of assets in the annual actuarial report. Premiums or charges, as specified in this paragraph, for post-retirement health insurance benefits, including dental insurance and medicare reimbursement benefits, shall be paid from the health insurance fund.

A. Beginning July 1, 1999, the City's annual contribution to the health insurance fund may equal the sum of the actuarially computed normal cost for the year plus an amortization of the cumulative net actuarial gains and losses arising from the experience of active members on or after January 1, 1998. Using an amortization period adopted by the board of trustees for this purpose. However, in no case shall the city's annual contribution to the health insurance fund be less than 2.48 percent of active member payroll, and in no case shall the City's annual contribution to the health insurance fund exceed the limitation imposed by Internal Revenue Code section 401(h) and the regulations thereunder. The amount, if any, by which the contribution must be reduced, in order to comply with the limitation imposed by section 401(h), shall instead be contributed to a voluntary employees beneficiary association established by the City for this purpose.

B. Beginning July 1, 1999, and each year thereafter, a portion of the premiums or charges for post-retirement health insurance benefits, including dental insurance and medicare reimbursement benefits, shall be paid from the health insurance fund on behalf of eligible retirants and beneficiaries of the retirement system in accordance with the applicable collective bargaining agreements and personnel rules of the City. The portion of the premiums or charges that will be paid from the health insurance fund is a percentage of such premiums or charges paid on behalf of persons with retirement effective dates on or after January 1, 1999. The percentage shall be four percent in the fiscal year beginning July 1, 1998, increasing four percent each year thereafter until it reaches 100 percent for fiscal years beginning on or after July 1, 2023. The amount of premiums or charges paid from the health insurance fund shall be reduced by the amount, if any, paid from a voluntary employees beneficiary association established by the City for this purpose. Notwithstanding the method specified in this subparagraph to compute the portion of the premiums or charges that are paid from the health insurance fund, the fund balance of the health insurance fund at any point in time is reserved to support the post-retirement health insurance benefits, including dental insurance and medicare reimbursement benefits, of all eligible retirants and beneficiaries of the retirement system regardless of retirement effective date.

C. Notwithstanding the creation or maintenance within the retirement system of the health insurance fund, this paragraph is not to be construed or deemed to have

established or removed any benefits, financial or otherwise, subject to article IX, section 24 of the 1963 Constitution of the State of Michigan. Nor shall the creation and maintenance of the health insurance fund preclude the City from giving consideration to and implementing cost containment measures as provided by law. Instead, the purpose of this paragraph is to put in place a mechanism for the advance funding of post-retirement health insurance benefits for eligible retirants, and not, apart from the advance funding obligation, to grant additional rights or to take away any rights which eligible retirants may already have.

(7) *Investment of funds.*

A. The Board of Trustees shall be the trustees of the funds of the retirement system and may invest and reinvest such funds as now or hereafter permitted by law. The Board may hold, purchase, sell, assign, transfer and dispose of any securities and investments in which any of the moneys of the retirement system have been invested, as well as the proceeds of such investments.

B. Except as otherwise provided in this section, no trustee or officer or employees of the retirement system shall have any direct or indirect interest in the gains or profits of any investments made by the Board. No such person, directly or indirectly, for himself or herself or as an agent or partner of others, shall borrow any of the moneys or deposits of the system or in any manner use such moneys or deposits, except to make such current and necessary payments as are authorized by the Board. No such person shall become an endorser or surety or become in any manner an obligor for any moneys loaned by or borrowed from the system.

(8) *Allowance of regular interest.* The Board annually shall allow and credit regular interest on the mean balances in each of the funds of the retirement system for the preceding year; provided, however, that interest to be credited members' individual balances in the employees' savings fund shall be computed on the balances standing to their credit at the beginning of the calendar year and shall be credited at the end of the calendar year, the amounts so allowed and credited shall be paid from interest and other earnings on investments of the system. Any additional amount necessary to allow regular interest, as provided in this system, shall be paid from the pension accumulation fund. AU interest, dividends and other income derived from the deposit and investment of moneys of the system not required for the allowance of regular interest, shall be credited to the pension accumulation fund.

(9) *Method of making payments.* All payments from the funds of the retirement system shall be made according to provisions of the City Charter only upon regular City vouchers signed by two persons designated by the Board of Trustees. A duly attested copy of a resolution of the Board designating such persons, and bearing upon its face specimen signatures of such persons, shall be filed with the City Treasurer as his or her authority to make payments upon such vouchers. No voucher shall be drawn unless it has been previously authorized by a specific or continuing resolution adopted by the Board.

(s) *Assignments Prohibited.*

(1) The right of a person to a retirement allowance, to the return of accumulated contributions and to any other benefit provided by the retirement system, and any other right accrued or accruing to any person under this section shall be unassignable, except as specifically provided in this section. Further, the moneys belonging to the system shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is specifically provided in this section. The City shall have the right of setoff for any claim arising from fraud of or embezzlement by a member, retirant or beneficiary. If a member is covered by a group insurance or prepayment plan participated in by the

City, and should he or she be permitted to, and elect to, continue such coverage as a retirant, he or she may authorize the Board of Trustees to have deducted from his or her retirement allowance the payments required of him or her to continue coverage under such group insurance or prepayment plan.

(2) All assets of the retirement system shall be held for the sole purpose of meeting disbursements authorized by this section and shall be used for no other purpose. The crediting of moneys to the various funds of the system shall be interpreted to refer to accounting procedures and not to the actual segregation of moneys in the various funds of the system.

(t) *Protection Against Fraud.* No person, with the intent to deceive, shall make any statement or report required under this chapter which is untrue, or shall falsify or permit to be falsified any record of the retirement system, or otherwise violate, with intent to deceive, any of the provisions of this section.

(u) *Errors.* If any change or error in the records of the City or the retirement system results in any person receiving from the system more or less than he or she would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error and adjust the payment in such manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

(v) *Application of Other Law.* The pensions, annuities and other benefits being paid retired policemen and firemen of the City, who retired prior to January 1, 1944, and to the widows and widowers and children of such retired policemen and firemen, shall be continued without change according to law. The necessary funds to make payment of such annuities, pensions and other benefits shall continue to be an obligation of the City.

(w) *Effect of 1966 Amendment.* The annuities, pensions or retirement allowances being paid retirants and beneficiaries under this section the day preceding the effective date of the 1966 revision of this section (September 1, 1966) shall continue to be paid in accordance with the provisions of this section in force the day preceding such effective date.

(x) *Effective Date of Retirement System.* The effective date of the retirement system is January 1, 1944.

(y) *Benefit Limitations and Required Distributions.*

(1) Benefits paid under the retirement system shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated herein by reference.

(2) Notwithstanding any provisions in this section to the contrary, the distribution of benefits shall be in accordance with the following requirements and shall otherwise comply with Internal Revenue Code Section 401(a)(9) and the regulations thereunder, the provisions of which are hereby incorporated herein by reference:

A. A member's benefit shall be distributed to him or her not later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy or the calendar year in which the member retires. Alternatively, distributions to a member must begin no later than the applicable April 1 as determined under the preceding sentence and must be made over the life of the member (or the life expectancies of the member and the member's spouse) in accordance with the regulations.

B. Distributions to a member and his or her spouse shall be made only in accordance with the incidental death benefit requirements of Internal Revenue Code Section 401(a)(9)(G) and the regulations thereunder.

(Ord. No. 927, 1-22-96; Ord. No. 1008, § 1, 12-6-99)

294.03. Minimum annual benefits.

Effective July 1, 1994, the minimum annual benefit for members with twenty or more years of credited service shall be ten thousand five hundred dollars (\$10,500) for a member and five thousand two hundred fifty dollars (\$5,250) for a surviving spouse. The twenty or more years of credited service requirement shall be waived in the event of the death of a member which is determined to be duty-related.

Effective January 1, 1995, and each consecutive January thereafter, an annual cumulative increase shall be made to each member who:

(a) Has twenty-five years or more of credited service at the time of his or her retirement, provided that the twenty-five years or more of credited service requirement shall be waived in the event of the death of a member which is determined to be duty-related;

(b) Has attained the age of sixty years as of the January 1 increase date; and

(c) Has been retired for a minimum of six months as of the January 1 increase date, and to each surviving spouse meeting the following conditions:

(1) The deceased retiree or deceased member had twenty-five years or more of credited service at the time of his or her death; provided that the twenty-five years or more of credited service requirement shall be waived in the event of the death of a member which is determined to be duty related;

(2) The deceased retiree or deceased member would have attained the age of sixty years as of the January 1 increase date; and

(3) The deceased retiree had been retired or the deceased member had been deceased for a minimum of six months as of the January 1 increase date.

The annual increase in the retirement allowance of a retired member shall be five hundred twenty-five dollars (\$525.00), and shall be adjusted according to his or her applicable spousal benefit option under Section 294.02(k)(3)A., provided that the cumulative increase does not exceed the cumulative increase in the Consumer Price Index since retirement.

The annual increase in the retirement allowance of a surviving spouse shall be two hundred sixty-two dollars and fifty cents (\$262.50), and shall be adjusted according to his or her applicable spousal benefit option under Section 294.02(k)(3)A., provided that the cumulative increase does not exceed the cumulative increase in the Consumer Price Index since the earlier of the death or retirement of the deceased or retired member.

(Ord. No. 927, 1-22-96)

294.99. Penalty.

Editor's note: See Section 202.99 for general Code penalty if no specific penalty is provided.